

**Department of Personnel Administration
Memorandum**

TO: Personnel Management Liaisons (PML)

SUBJECT: Domestic Partner Benefits Impacted by AB 205, Chapter 421	REFERENCE NUMBER: 2005-002
DATE ISSUED: 01/20/05	SUPERSEDES:

This memorandum should be forwarded to:

**Personnel Officers
Personnel Transactions Supervisors
Personnel Transactions Staff**

FROM: Department of Personnel Administration
Benefits Division

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Effective January 1, 2005, new provisions of the California Domestic Partner Rights and Responsibilities Act of 2003 (AB 205, Chapter 421) became operative. The (California Family Code Section 297 et seq.) law gives domestic partners the same rights, protections, and benefits as spouses. The purpose of this memo is to provide departments with information regarding the impact of AB 205 on the State's Benefit Programs administered by the Department of Personnel Administration (DPA).

Domestic partner coverage is available to same sex partners (registered with the Secretary of State) or opposite sex partners if the State employee and/or his/her partner are age 62 or over and eligible for Social Security.

Employee Assistance, Group Legal Service Insurance, Group Term Life Insurance, Voluntary Long Term Disability Insurance, and Pre-Tax Parking Reimbursement Account Programs

Coverage currently provided to spouses as specified in the Employee Assistance Program and Group Legal Services Insurance Program will be extended to domestic partners and any eligible children of this union. In addition, survivor benefits (beneficiary designations) will be extended to domestic partners for the following benefit programs:

- Group Term Life Insurance Program (Excluded employees only),
- Voluntary Long Term Disability Insurance Program (Excluded employees only), and
- Pre-Tax Parking Reimbursement Account Program.

DPA has directed program contractors to update all forms and program materials to reflect these changes. DPA will also be updating the affected sections within the Benefits Administrative Manual for distribution to Personnel Offices in the near future.

Dental, Vision, FlexElect, and Consolidated Benefits (CoBen) Programs

Based on past legislation (AB 26, Chapter 588, Statutes of 1999) the State's Dental, Vision, FlexElect, and CoBen Programs currently include domestic partner benefit coverage. Therefore, AB 205, Chapter 421 has no new impact on the current provisions for domestic partner eligibility for these benefits. Information regarding domestic partner benefits offered in these programs was provided to Departments in PML1999-068 dated December 21, 1999, and PML2001-002 dated January 1, 2001. Additionally, the Benefits Administrative Manual currently contains the policies and procedures relevant to domestic partner coverage for these benefits.

FlexElect Program Medical Reimbursement Account

Under the State's FlexElect Medical Reimbursement Account (also known as a Flexible Spending Account [FSA]), current federal tax law does not include domestic partners in the definition of dependent, which means that employees who enroll in a medical reimbursement account are unable to claim reimbursement for a domestic partner's medical expenses unless the domestic partner otherwise qualifies as a dependent under Internal Revenue Code Section 152. Since AB 205 does not amend or modify federal law, domestic partners may not claim medical expenses through a FSA.

Savings Plus Program

Employees who have a Savings Plus 401(k) Plan, 457 Plan, and/or Part-time, Seasonal, and Temporary Employees' Retirement Program (PST Program) account may designate their Domestic Partner as a beneficiary. A named beneficiary will receive the account balance if the employee dies before the account is closed. If an employee has an Alternate Retirement Program (ARP) account or does not designate a beneficiary for his or her Savings Plus 401(k) Plan, 457 Plan, and/or PST Program account, assets will be paid to the closest surviving family member based on a hierarchy which now includes Domestic Partners. Savings Plus will be updating its forms and publications by March 1. Please look for these updated materials on the Savings Plus website (www.sppforu.com).

California Family Rights Act (CFRA)/Family Medical Leave Act (FMLA)

Under AB 205, the CFRA provides State employees with 12 weeks of job protected leave to care for a domestic partner who has a serious illness or health condition. FMLA also provides State employees with 12 weeks of job protected leave to care for a family member, but does not recognize domestic partners as an eligible leave entitlement. Employers must comply with both these State and federal laws when providing an employee with a family medical leave. Therefore, in compliance with AB 205, under both federal and State laws, a State employee may receive two leaves, a job protected leave to care for a registered domestic partner under CFRA and a FMLA leave for his or her own serious health condition, or that of a parent or dependent.

However, when a bargaining unit agreement recognizes domestic partners under FMLA, a State employee is limited to only one family medical leave which counts against both CFRA and FMLA entitlements.

If you have questions regarding domestic partners information, please contact the appropriate program staff:

Dental, Vision, FlexElect, and Coben	William Page, Staff Personnel Program Analyst, (916) 445-9801
Employee Assistance, Group Legal Service, PreTax Parking Reimbursement	Darlene Schell, Benefits Program Manager, (916) 324-9362
Savings Plus	(866) 566-4777 and press *0 to speak with a customer service representative Monday through Friday between the hours of 8:30 a.m. and 4:00 p.m. Pacific Time.
FMLA	Personnel Services Branch, (916) 323-3343 Fax, (916) 327-1886 or psb@dpa.ca.gov

/s/ Debbie Endsley

Debbie Endsley, Chief
Benefits Division

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